

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNWIRED PLANET, LLC,

Plaintiff,

v.

SQUARE, INC.,

Defendant.

3:13-cv-00579-RCJ-WGC

**MODIFICATION TO DISCOVERY
PLAN & SCHEDULING ORDER (DOC.
47)**

Following a June 12, 2014 telephonic discovery status conference with the parties, Unwired Planet, LLC (Unwired) and Square, Inc. (Square), the court issues this Order modifying the Discovery Plan and Scheduling Order (Doc. # 47) entered in this case.

Section B.4.c is modified to reflect that the deferment of e-discovery, including discovery of e-mails and other ESI, until Phase II does not alleviate the party defending against patent infringement (Square) from its obligation under LR 16.1-9(a) of producing to the opposing party (Unwired) or making available for inspection and copying: "(a) Source code, specifications, schematics, flow charts, artwork, formulas, or other documentation sufficient to show the operation of any aspects or elements of an Accused instrumentality identified by the patent claimant in its LR 16.1-6(c) chart" if such information is contained within an e-mail or other ESI format. To be clear, if information that comes within the scope of LR 16.1-9(a) exists in an e-mail or other ESI format, such material shall be made available to Unwired.

Section B.3 of the Discovery Plan and Scheduling Order is further modified to reflect the order of the court announced at the June 12, 2014 discovery status conference, and to bring it in line with the E-Discovery Model Order as follows:

(1) Unwired and Square are directed to engage in a thorough, personal meet and confer session(s) regarding Square's production pursuant to LR 16.1-9(a) ascertain whether they can

1 come to a mutually agreeable resolution;

2 (2) If that resolution is unsuccessful, Unwired and Square are directed to confer and
3 identify five custodians, five relevant and narrowly-tailored search terms, and a reasonable time
4 frame for a targeted search of Square's ESI with the goal of facilitating the production of
5 materials that come within the scope of LR 16.1-9(a), which is to take place in Phase I of
6 discovery as outlined in the Discovery Plan and Scheduling Order. The parties may jointly agree
7 to modify these limits without the court's leave.

8 (3) If after a search has been made pursuant to (2), Unwired deems it necessary, it has
9 leave of court to take **one** deposition, limited to **four hours**, of a Federal Rule of Civil Procedure
10 30(b)(6) witness identified by Square as having knowledge regarding the universe of documents
11 that would be responsive to LR 16.1-9(a). The deposition will be limited to this topic only. This
12 deposition is in addition to the other depositions allowed during Phase I by the Discovery Plan
13 and Scheduling Order.

14 (4) If, after engaging in a thorough meet and confer session with Unwired, Square
15 contends that the custodial search of ESI for materials responsive under LR 16.1-9(a) would be
16 unduly burdensome, Square is instructed to file and serve a notice alerting the court of this
17 contention and the court will set the matter for a further discovery status conference. The parties
18 are reminded, however, of their obligation to engage in a *good faith* effort to meet and confer to
19 resolve any dispute without the court's involvement. Should the court require any further briefing
20 on the matter other than the notice advising the court of the dispute, the court will issue any
21 further orders it deems necessary on the subject of briefing. Telephonic appearances will be
22 permitted for any further discovery status conference.

23
24 **IT IS SO ORDERED.**

25 June 13, 2014.

26 
27 WILLIAM G. COBB
28 UNITED STATES MAGISTRATE JUDGE